



U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
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Certified No. 7012 1010 0000 9856 2259

Charge No. 423-2015-01881

Theophoulis Johnson

143 Lucedale Street

Jackson, MS 39209

Charging Party

Sheet Metal Workers, Local 214

C/o Randy Thompson, Business Agent

510 Guidici Street

Jackson, MS 39204

Respondent

DETERMINATION

Under the authority vested in me by the Commission, I issue the following determination on the merits of the above- cited charge.

Respondent is an employer within the meaning of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e, et seq. Timeliness and all other requirements for coverage have been met.

Charging Party alleges that Respondent discriminated against him in violation of Title VII of the Civil Rights Act of 1964, as amended, (Title VII) based on his race (black). Charging Party also alleges that Respondent discriminated against him in violation of the Age Discrimination in Employment Act of 1967, as amended (ADEA). Specifically, Charging Party alleges that Respondent denied him referrals to available job opportunities as a sheet metal mechanic, overlooked his name on the lay-off sheet since 2012, and referred white workers (some non-union members) to sheet metal jobs and referred younger workers (some non-union members) to sheet metal jobs.

Respondent refused to provide an explanation or documentation addressing the issues of the charge. Where Respondent has provided no adequate explanation or documentary evidence for the adverse employment decision taken against Charging Party, it can be reasonably inferred or concluded that Charging Party's rights were violated under Title VII of the Civil Rights Act of 1964, as amended, and also violated under the Age Discrimination in Employment Act of 1964, as amended.

Based on the absence of evidence and Respondent's intent to defeat the laws enforced by the Commission, Charging Party is entitled to the presumption that documents would have

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shown that Respondent discriminated against him, as alleged, under Title VII and under the ADEA.

This determination is final. When the Commission finds that violations have occurred, it attempts to eliminate unlawful practices by informal methods of conciliation. Therefore, I invite the parties to join with the Commission in reaching a just resolution of this matter. Disclosure of information obtained by the Commission during the conciliation process will be made only in accordance with the Commission's Procedural Regulations (29 CFR Part 1601.26).

If the Respondent wishes to accept this invitation to participate in conciliation efforts, it may do so by accepting the enclosed agreement as presented, or providing a counter proposal to the Commission representative, within 14 days of the date of this determination.

The remedies for violations of the statutes we enforce are designed to make the identified victims whole and to provide corrective and preventive relief. These remedies may include, as appropriate, an agreement by the Respondent to not engage in unlawful employment practices, placement of identified victims in positions they would have held but for discriminatory actions, back pay, restoration of lost benefits, injunctive relief, compensatory and/or punitive damages, and notice to employees of the violation and the resolution of the claim.

Should the Respondent have further questions regarding the conciliation process or the conciliation terms it would like to propose, we encourage it to contact the assigned Commission Representative. The assigned Commission Representative for purposes of conciliation is [REDACTED]. Should there be no response from the Respondent within fourteen (14) days of the date of this determination; the Commission may conclude that further conciliation efforts would be futile or nonproductive.

08/17/2016
Date

Enclosure: Proposed Conciliation Agreement
Invitation to Conciliate

On Behalf of the Commission:

Wilma Jomo Scott

Wilma Scott, Area Director